

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

PASTOR MACHUCA-SECUNDINO,

Petitioner,

v.

CIVIL ACTION NO. 5:16-cv-09266

D. L. YOUNG, *Warden*,

Respondent.

**MEMORANDUM OPINION AND ORDER**

On September 30, 2016, the Petitioner, acting pro-se, filed his *Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* (Document 1). By *Standing Order* (Document 4) entered on October 3, 2016, the matter was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

On April 11, 2017, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 11) wherein it is recommended that this Court dismiss the Petitioner's *Application* without prejudice and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by April 28, 2017.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the


factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Petitioner's *Application* (Document 1) be **DISMISSED without prejudice** and this matter be **REMOVED** from the Court's docket.

Additionally, for the reasons more fully set forth in the Magistrate Judge's *Order to Show Cause* (Document 9), as well as the reasons in the *Proposed Findings and Recommendation*, the Court **ORDERS** that the Petitioner's *Motion for Abeyance* (Document 6) and *Application to Proceed Without Prepayment of Fees and Costs* (Document 7) be **DENIED**.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Eifert, counsel of record, and any unrepresented party.

ENTER: May 2, 2017

  
IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA